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EXAMINER

CHEN, TE Y

ART UNIT

PAPER NUMBER

2161

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/057,016	Applicant(s) TURNASELLA, THEODORE	
	Examiner Susan Y. Chen	Art Unit 2161	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 December 2005.
2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5) ☐ Claim(s) _____ is/are allowed.
6) ☒ Claim(s) 1-31 is/are rejected.
7) ☐ Claim(s) _____ is/are objected to.
8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Response To Amendment

This office action is in response to the amendment filed on 12/07/2005.

Claims 1-31 are pending for examination, claims 1, 12, and 20-30 have been amended, and claim 31 has been newly added.

Claim Objections

Claims 20, 28-30 are objected to because of the following informalities:

As to claim 20, the word "aging" should be changed to "age".

As to claims 28-30, the phrase "system" should be changed to "A system", furthermore, the dependency of claim 29-30 seems incorrect, because their base claim 1 is a method claim. To expedite the instant application processing, the examiner will regard claims 29-30 as dependent from claim 20.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-31 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,741,993 issued to Zitaner et al. (hereinafter referred as '993) in view of U.S. Patent No. 6,401,079 issued to Kahn et al. (hereinafter referred as '079)

As to claims 20, the '993 patent discloses a system for providing survey data from members of a survey group via an internet [e.g., Abstract, Fig. (s) 1-4], comprising:

a) a database for storing salary data [e.g., the unit 10, Fig. 1];
b) a server [e.g., the Reward Workbench (60), Fig. 1] providing access to the Internet, wherein the server configured to:

accepting salary data to the salary survey service [e.g., the 1st step of Fig. 3 wherein the row data elements including participant's and salary data at shown in Fig. 4] ;

storing the salary data received from the at least a portion of the participants in the database [e. g., the 4th step of Fig. 3];

grouping the plurality of participants into survey group by the portion of the plurality of participants [e.g., the 2nd step of Fig. 3];

generating a salary survey for participants of the survey group using the stored data provided by the participants of the survey group [e.g., col. 6, lines 23-33]

providing access to the salary survey via the internet [e.g., Abstract, lines 8-10, the Data Network, Fig. 2].

The '993 patent did not specifically disclose aging salary data for at least a portion of stored salary data;

However, the '079 patent disclosed the claimed feature [e.g., the effective date, expiration date attributes of the Pay Scales table 435, Fig. 4].

The '993 and '079 patents are both in the same endeavor for efficiently survey salary information, thus, with the teachings of '993 and '079 in front of him/her, it would have been obvious for an ordinary skilled person in the art at the time the invention was made to be motivated to modify the salary information of '993 system with aging attributes as taught by '079 patent, because by doing so, the combined system will be upgraded to provide more details information for the pay scale survey and calculation.

As to claim 21, except all the features recited in claim 20, the combined system of '993 and '079 patents further discloses that the survey are group by at least one of the business organization or others [e.g., '993: col. 1, lines 14-22].

As to claims 22-25, except all the features recited in claim 20, the combined system of '993 and '079 patents further discloses that the members including

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individuals, companies, trade associations, contributor and subscriber [e.g., '993: col. 1, lines 26-35].

As to claims 26-27, except all the features recited in claim 20, the combined system of '993 and '079 patents further discloses that the server is further configured to receive designations of the members to be included in the survey group and parameters to defining information to be presented by the survey [e.g., '993: the first three steps of Fig. 3; Figure 4 and associated texts].

As to claims 28-29, except all the features recited in claim 20, the combined system of '993 and '079 patents further discloses that the server is configured to provide access to the plurality members of the survey group [e.g., '993: the units 30, 32, 34, 36, Fig. 1].

As to claim 30, except all the features recited in claim 20, the combined system of '993 and '079 patents further discloses that the salary data is related to job positions [e.g., '993: the Job_code, Position fields, Fig. 4].

Claim Rejections - 35 USC § 103 (continue)

As to claim 31, the combined method of '993 and '079 patents did not specifically disclose that the salary data is aged by an annual growth rate.

However, Official Notice is taken that aging salary data by an annual growth rate is well-known and expected in the art, therefore, it would have been obvious to one of ordinary skill person in the art at the time the invention was made to include this well known features in the combined method of '993 and '079 patents, for the purpose of facilitate the calculation of annual wage.

As to claims 1-19, the steps in the claimed method are deemed to be made obvious by the functions of the apparatus structure of claims 20 - 30 in the combination discussed above, hence were rejected for the same reasons.

Response to Arguments

Applicant's arguments with respect to claims 1-31 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

To expedite the process of re-examination, the examiner requests that all future correspondences in regard to overcoming prior art rejections or other issues (e.g. 35 U.S.C. 112) set forth by the Examiner prior to the office action, that applicant should provide and link to the most specific page and line numbers of the disclosure where best support is found (see 35 U.S.C. 132).

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Susan Y. Chen whose telephone number is 571-272-4016. The examiner can normally be reached on Monday - Friday from 7:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic can be reached on 571-272-4023. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Susan Y Chen
Examiner
Art Unit 2161

February 15, 2006


UYEN LE
PRIMARY EXAMINER